

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOHN ROBERT DEMOS, JR.,

Plaintiff,

v.

WASHINGTON STATE
INDETERMINATE SENTENCE REVIEW
BOARD, et al.,

Defendants.

CASE NO. C22-5987-RSL-BAT

**REPORT AND
RECOMMENDATION**

Plaintiff is well-known locally and nationally as an abusive litigant. He is under pre-filing bar orders in a number of courts, including this Court, the Eastern District of Washington, the Washington State courts, the Ninth Circuit Court of Appeals, and the United States Supreme Court. *See, e.g., Demos v. Storrie*, 507 U.S. 290, 291 (1993). In the current proposed action, plaintiff alleges that the Washington State Indeterminate Sentence Review Board, its chair Kecia Rongen, and governor Jay Inslee are violating oral and written Executive Orders of United States President Joseph Biden by not accelerating Mr. Demos's release from prison. Dkt. 1-1, at 4. He fails, however, to allege any plausible facts or law that would suggest any such violation. He has not paid the civil filing fee and has not submitted an IFP application.

1 As a bar order litigant, plaintiff may submit only **three** IFP applications and proposed
2 actions each year. *See In re John Robert Demos*, MC91-269-CRD (W.D. Wash. Jan. 16, 1992);
3 *In re Complaints and Petitions Submitted by John Robert Demos* (W.D. Wash. Dec. 15, 1982).
4 Furthermore, under 28 U.S.C. § 1915(g), plaintiff must demonstrate “imminent danger of serious
5 physical injury” to proceed IFP because he has had numerous prior actions dismissed as
6 frivolous, malicious, or for failure to state claim. *See Demos v. Lehman*, MC99-113-JLW (W.D.
7 Wash. Aug. 23, 1999).

8 Plaintiff may not proceed with this action. Because plaintiff has had more than three prior
9 actions dismissed as frivolous, malicious, or for failure to state a claim, he may not proceed *in*
10 *formal pauperis* unless he alleges that he is in “imminent danger of serious physical injury.” 28
11 U.S.C. § 1915(g); *Demos*, MC99-113-JLW. Plaintiff’s proposed complaint does not contain “a
12 plausible allegation that [he] faced imminent danger of serious physical injury at the time of
13 filing.” *Andrews v. Cervantes*, 493 F.3d 1047 (9th Cir. 2007) (internal citations omitted).
14 Plaintiff alleges that he faces imminent danger because he is imprisoned in a place that is not
15 taking adequate precautions against the spread of the flu, COVID, and RSV such that the failure
16 to release him immediately constitutes imminent harm. But he has made no plausible allegations
17 that the prison has improperly exposed him to viral infection, and he has not suggested any
18 cognizable reason to believe Executive Orders require his immediately release. This matter is
19 patently frivolous.

20 The Court recommends **DENYING** plaintiff IFP status and **DISMISSING** the proposed
21 complaint, Dkt. 1, without prejudice in accordance with 28 U.S.C. § 1915(g) and standing bar
22 orders. *See In re John Robert Demos*, MC91-269-CRD (W.D. Wash. Jan. 16, 1992); *In re*
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1 *Complaints and Petitions Submitted by John Robert Demos* (W.D. Wash. Dec. 15, 1982). A
2 proposed Order is attached.

3 The Clerk should note the matter for **December 21, 2022**, as ready for the District
4 Judge's immediate consideration.

5 DATED this 21st day of December, 2022.

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8 BRIAN A. TSUCHIDA
9 United States Magistrate Judge
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